

DEPARTMENT OF COMMERCE

Comm 20

Chapter Comm 20

ADMINISTRATION AND ENFORCEMENT

SUBCHAPTER I — PURPOSE AND SCOPE	1	Comm 20.12 Scope.....	63
Comm 20.01 Purpose.....	1	Comm 20.13 Manufacture, sale and installation of dwellings.....	64
Comm 20.02 Scope.....	2	Comm 20.14 Approval procedures.....	68
Comm 20.03 Effective date.....	8	Comm 20.15 Effect of approval.....	72
Comm 20.04 Applications.....	8	Comm 20.16 Suspension and revocation of approval.....	73
Comm 20.05 Exemptions.....	10	Comm 20.17 Effect of suspension and revocation.....	74
SUBCHAPTER II — JURISDICTION	15	SUBCHAPTER VI — APPROVAL OF MATERIALS	75
Comm 20.06 Procedure for municipalities exercising jurisdiction.....	15	Comm 20.18 Building Product Approvals.....	75
SUBCHAPTER III — DEFINITIONS	19	SUBCHAPTER VII — VARIANCES, APPEALS, VIOLATIONS AND PENALTIES.....	79
Comm 20.07 Definitions.....	19	Comm 20.19 Petition for variance.....	79
SUBCHAPTER IV — APPROVAL AND INSPECTION OF ONE- AND 2-FAMILY DWELLINGS.....	31	Comm 20.20 Municipal variance from the code.....	80
Comm 20.08 Wisconsin uniform building permit.....	31	Comm 20.21 Appeals of orders, determinations, and for extension of time.....	81
Comm 20.09 Procedures for obtaining uniform building permit.....	33	Comm 20.22 Penalties and violations.....	83
Comm 20.10 Inspections.....	53	SUBCHAPTER IX — ADOPTION OF STANDARDS.....	84
Comm 20.11 Suspension or revocation of Wisconsin uniform building permit.....	63	Comm 20.24 Adoption of standards.....	84
SUBCHAPTER V — APPROVAL AND INSPECTION OF MANUFACTURED DWELLINGS AND THEIR COMPONENTS.....	63		

Subchapter I — Purpose and Scope

Comm 20.01 Purpose.

The purpose of this code is to establish uniform statewide construction standards and inspection procedures for one- and 2-family dwellings and manufactured dwellings in accordance with the requirements of ss. 101.60 and 101.70, Stats.

Purpose

It should be kept in mind that statewide "uniformity" is a primary objective in the administration and enforcement of the code. To accomplish this objective, it is important that any variations in the regulations be kept at an absolute minimum and that persons given the responsibility to interpret and enforce these regulations perform their duties the same as their fellow workers. Therefore, the UDC is a maximum and minimum code and all inspectors enforcing it must be state-certified. The UDC Program staff at Safety and Buildings Division act as consultants to inspectors and other users of the code to help maintain this uniformity.

Question: *What is the Wisconsin Uniform Building Code and its relationship to the Wisconsin Uniform Dwelling Code?*

Answer: *The Wisconsin Uniform Building Code (WUBC) was prepared by the Building Inspectors Association of Southeastern Wisconsin. It was quite popular before the state code, Comm 20-25 (UDC), was enacted in June 1980. Some municipalities still use the WUBC code for outbuildings and pre-1980 dwelling alterations and additions since such construction is not covered by the state UDC. It also covers local administrative procedures and levying of fines which are not covered by the UDC. The WUBC has a chapter numbering system starting with 30 which helps distinguish it from the UDC, chs. 20-25.*

There is also a national model building code called the IRC (International Residential Building Code) that is prevalent in some neighboring states including Minnesota but it is not enforced in Wisconsin. The IRC and several other One and Two-Family Codes used in many other states are similar to the IRC.

Comm 20.02 Scope.

The provisions of chs. Comm 20 to 25 shall apply to the construction and inspection procedures used for all new one- and 2-family dwellings, manufactured buildings for dwellings and newly constructed community-based residential facilities providing care, treatment and services for 3 to 8 unrelated adults.

Scope

*The emphasis we should make in this paragraph is on the word "new." It is the intent of the code that these regulations **not** apply to any house constructed prior to the effective date of the regulations. Chapter Comm 22 became effective December 1, 1978 and Chapters Comm 20, 21, 23, 24 and 25 became effective June 1, 1980. Homes built prior to these dates are not subject in any way to the Uniform Dwelling Code as far as the state is concerned. Local regulations may be stricter and retroactively apply the UDC to such homes. The separate state electrical and*

plumbing codes also applied before 1980. Separate state smoke detection code, Comm 28, does apply to houses built before 1980.

For complaints about home improvement trade practices or landlord/tenant relations, you may contact:

*Wisconsin Dept. Of Agriculture Trade & Consumer Protection
Trade And Consumer Protection Division
801 West Badger Road
P O Box 8911
Madison Wi 53708
1 (800) 422-7128*

CBRF's or AFH's

Question: *What constitutes a community-based residential facility (CBRF) or an Adult Family Home (AFH) versus a rooming house?*

Answer: *The key is that a CBRF or AFH must have a license issued by the state Department of Health and Family Services (Tel 608-261-5993). The UDC covers those facilities constructed since 1980 serving 3 to 8 clients. Staff people are not counted.*

(1) MUNICIPAL ORDINANCES. (a) A municipality may not adopt an ordinance on any subject falling within the scope of this code including establishing restrictions on the occupancy of dwellings for any reason other than noncompliance with the provisions of this code as set forth in s. Comm 20.10 (1) (c). This code does not apply to occupancy requirements occurring after the first occupancy for residential purposes following the final inspection required under s. Comm 20.10 (1) (b) 4.

Municipal Ordinances

This requirement restricts the adoption of local ordinances which would be considered more or less restrictive than the Uniform Dwelling Code. Also refer to subsection Comm 20.06(1).

Note that this section does allow municipalities to enforce occupancy requirements on a UDC dwelling after the first occupancy. This would allow for housing ordinances that require basic maintenance of the structure after the original construction.

As a result of legislation (1991 Act 309) and rulemaking, the scope of the UDC has been expanded to include construction site erosion control. Therefore, municipalities may not enforce other local erosion control ordinances on UDC projects. Note that this only restricts local ordinance application when a UDC building permit is required and then only to on-site requirements. Local prohibitions against tracking on streets or soil deposition on neighboring properties would not be superseded. However, the ordinance could not directly require on-site measures to be taken.

(b) This code shall not be construed to affect local requirements relating to land use, zoning, fire districts, side, front and rear setback requirements, property line requirements or other similar requirements. This code shall not affect the right of municipalities to establish safety regulations for the protection of the public from hazards at the job site.

Allowable Municipal Ordinances

"Land use" would include regulating such things as constructing a house in a farming or business district.

"Zoning" ordinances are considered to be those which do not affect the design or assembly of a house or its appurtenances. Allowable zoning issues can include minimum dwelling size, exterior finish material, maximum dwelling height, minimum finished grade height and other items relating to the exterior appearance of the dwelling or to community property values.

"Setback" - In addition to requiring minimum distances to lot lines, streets, other buildings, etc. there could be a limitation on not permitting a building wall to have an opening if the wall is within a prescribed distance from the property line. Also there may be requirements for requiring a minimum fire-resistive rating for such a wall. This would be for the purpose of fire protection of adjacent property. An example would be a local requirement for a firewall at the property line of a "zero lot line" duplex.

"Hazards at the job site" means during the period a house is being constructed.

Summary of State Contractor Credentialing

The following types of activities require credentialing by the State Division of Safety and Buildings:

- *Plumbers*
- *Automatic fire sprinkler fitters and contractors*
- *Certified soil testers for private sewage systems*
- *Structural welders for commercial buildings*
- *Refrigeration and air conditioning technicians*
- *Installers and removers of underground and flammable liquid storage tanks.*
- *Contractors taking out construction permits for one and two family dwellings, regardless of its age. (There is no state licensing of general contractors for commercial buildings.)*
- *HVAC & refrigerant contractors.*

In addition, the Division offers voluntary master and journeyman electrician certifications, in lieu of any municipally-required examination, and a voluntary electrical contractor certification. For either the master or contractor certification, municipal license fees may still be charged. Contact us at (608)261-8500 for further information on any of these programs.

Other state agencies also have licensing programs for trades allied with construction.

- *The state Division of Health (608-266-9382) certifies roofing and siding contractors working with asbestos containing materials, as well as for other asbestos related activities. They also certify contractors dealing with lead-based paint removal.*
- *The Department of Natural Resources (608-266-0162) licenses well drillers and pump installers.*
- *The Department of Regulation and Licensing (608-266-1397) licenses designers of commercial buildings of over 50,000 cubic feet and land surveyors. If a builder is involved in the sales of spec homes they should contact the real estate licensing program at (608)266-5511 for further information.*
- *The Department of Regulation and Licensing (608-266-5511) licenses "Home Inspectors" involved in the sales of existing homes (secondary market homes) which may or maynot have been built to the UDC requirements call for further information.*

All businesses are obligated to comply with any applicable Worker Compensation requirements (608-266-1340), Unemployment Compensation requirements (608-266-3114), sales, use or withholding taxes (608-266-2776) and corporate registration requirements (608-266-9869).

Question: *Does a municipality have the authority to license trades other than plumbers working on a home under the UDC?*

Answer: *Because of the ambiguity of s. 101.63(2) Stats., the department has taken a "hands off" approach to the issue. Municipalities, at their option, will be allowed to require licensing of the trades, including an owner/occupant.*

Question: *Are contractors subject ot any special consumer protection rules?*

Answer: *The Department of Agriculture, Trade and Consumer Protection does administer Chapter Ag 110, Wisconsin Administrative Code, which regulates home improvement trade practices (but does not cover construction of new residences). This code does include language regarding prohibited trade practice, building permits, guarantees or warranties, home improvement contract requirements and preservation of buyer's claims and defenses, but not bonding. Also, as above, there may be local ordinances regarding contractor bonding.*

(c) Any municipality may, by ordinance, require permits and fees for any construction, additions, alterations or repairs not within the scope of this code.

Items Not Within the Scope of the Code

Municipalities may adopt local ordinances covering the following:

"Construction" - Detached buildings such as garages, storage, agricultural buildings, fences, driveways, etc.

"Additions, alterations or repairs" - Additions, alterations and repairs to houses constructed before June 1, 1980. However, additions, alterations or repairs to houses built between

December 1, 1978 and June 1, 1980, must comply with ch. Comm 22, Energy Conservation requirements.

(d) Any municipality may, by ordinance, adopt the provisions of chs. Comm 20 to 25 to apply to any additions or alterations to existing dwellings.

Pre-1980 Dwellings

Municipalities may adopt any code, including the UDC, to apply to homes built before June 1, 1980. In fact, they are encouraged to adopt the UDC for these older homes, especially alterations and additions, so as to simplify enforcement procedures and code understanding by builders and owners. However, any petitions for variances on pre-1980 dwellings would be handled by the local municipality only. Also, state inspector certification would not be necessary to enforce the UDC on older homes.

However, the state Plumbing and Electrical Codes generally do apply to all buildings in the state, regardless of the age. Also, the Smoke Detectors Code, ch. Comm 28, will require older dwellings to have smoke detectors, and the Rental Unit Energy Efficiency Standards Code requires rental residential property to meet energy conservation standards at the time of sale. (See order form at front for informational brochures.)

(2) LEGAL RESPONSIBILITY. The department or the municipality having jurisdiction shall not assume legal responsibility for the design or construction of dwellings.

Legal Responsibility

The compliance and penalty sections of the statutes and code first require the owner, designer and builder to conform to the law and the code even if there are no inspections performed. When inspections are performed, the inspector is required by the same statute section to be certified. It is the responsibility of everyone involved to carry his or her respective share of the liability of complying with the laws and regulations. Governing bodies which perform inspections are considered to be in a position of "conflict of interest" if they also perform acts of actual design and physical construction of the inspected work. It is the duty of the governing bodies and inspectors to advise, inspect and cause compliance. It is not their duty to perform design and construction type activities. This is not to say that inspectors and their employing municipalities are exempt from liability in their actions.

(3) RETROACTIVITY. The provisions of this code are not retroactive, except as specified in s. Comm 21.09.

Retroactivity

The general rule is that for a regulation to be retroactive, it must be written with a statement that existing conditions must be brought into conformance. As the UDC is revised and updated,

existing homes are not required to be brought up to the new standards. Because of this, it is important that inspectors keep their old code books for use in inspecting existing dwellings.

A dwelling may continue to be built per the code at the time of permit application, despite any code changes that may take place during the period of construction. The permit applicant may submit a revision to the previously approved plans, if he or she desires to be covered by a new code provision.

Repair work, as defined in s. Comm 20.07(61), also does not need to be done according to the new code but rather may be done per the code at original construction. Alterations and additions per ss. Comm 20.07(2) and (4), to homes within the scope of the UDC, must be per the current code. See s. Comm 20.07(61) of the code and this commentary for a discussion on repairs and alterations to UDC homes.

(4) INNOVATIVE DWELLINGS. No part of this code is intended to prohibit or discourage the construction of innovative dwellings such as a dwelling built below ground, a geodesic dome, a concrete house, a fiber-glass house or any other nonconventional structure.

Innovative Dwellings

The intent of this paragraph is to permit flexibility in the design and construction of houses. It is not the intent of the code to permit unsafe construction or hazardous conditions to occur. Therefore, when a house is designed outside the prescriptive or cookbook methods of this code, the designer must demonstrate to the enforcing authority that the house will perform as required by the code. Engineering performance standards are listed in ss. Comm 20.24, 21.02 and elsewhere.

(5) LANDSCAPING. Except for construction erosion control, the scope of this code does not extend to driveways, sidewalks, landscaping and other similar features not having an impact on the dwelling structure.

Landscaping

There will be very few conditions or circumstances under which the landscaping would impact on the dwelling structure. One example would be in determining final grade where it may affect the need for treated sills or rim joist per Comm 21.10. Another example might be a sidewalk, landing, porch, or driveway not properly installed such that it is lifted through frost action to such an extent that a door required as an exit cannot be opened. Further examples would include window wells, used for emergency exits or light wells, also guardrails when there is elevation changes of more than 24" and decks or landings and stairs of more than 24" elevation changes. Also s. Comm 21.12 requires that the grade slope away from the dwelling to provide good drainage and landscaping may be part of erosion control under Comm 21.125.

Comm 20.03 Effective date.

The effective date of ch. Comm 22 is December 1, 1978. The effective date of chs. Comm 20, 21, 23, 24 and 25 is June 1, 1980.

Effective Date

The effective date of chs. Comm 20, 21, 23, 24 and 25 was June 1, 1980. The effective date of ch. Comm 22 was December 1, 1978. Additionally, there have been various revisions to all chapters of the code since the original effective dates. Check the "History Notes" at the end of each code section for effective dates of revisions. (See the Introduction page of the UDC for an explanation of these history notes.) For purposes of determining what date a dwelling has begun "construction," use the date of permit application. In the case of a manufactured dwelling, the date that its construction started determines the applicable code edition.

Comm 20.04 Applications.

(1) (a) NEW DWELLINGS. This code applies to all dwellings, dwelling units and foundations for dwelling units, for which the building permit application was made or construction commenced on or after the effective date of this code.

(b) All dwellings covered under par. (a) shall meet the requirements of ch. Comm 21.

(c) 1. The installation of heating, air conditioning, plumbing or electrical systems is not required.

2. If any of the systems under subd. 1. are installed, the systems and their installation shall comply with this code.

3. If a heating or air conditioning system is installed, the dwelling shall comply with ch. Comm 22.

Applications

*Note that additions and alterations, as defined in ss. Comm 20.07(2) and (4), to dwellings that were originally covered by the UDC are subject to the edition of the code at the time the permit for the new work is applied for. Additions and alterations also require permit application as required by local ordinance, but **not** new permit seals.*

(2) ADDITIONS OR ALTERATIONS. Additions or alterations to dwellings covered by this code shall comply with all provisions of this code, including the soil erosion provisions, at the time of permit application for addition or alteration.

(3) BED AND BREAKFAST ESTABLISHMENTS. The following portions of a bed and breakfast establishment shall comply with the provisions of this code:

(a) The third floor when used for other than storage.

(b) A structural addition, for which no use other than as a bed and breakfast establishment is proposed.

Note: See s. 254.61, Stats., for further conditions and limitations relating to bed and breakfast establishments.

Bed and Breakfast Establishments

Section 254.61, Stats., defines a bed and breakfast such that it:

- "(a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients;*
- (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place;*
- (c) Is the owner's personal residence;*
- (d) Is occupied by the owner at the time of rental;*
- (e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence; and*
- (f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following:*
 - 1. A structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure.*
 - 2. A structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under s. 254.64 (1) (b) is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules under s. 101.63 (1) and (1m)."*

This section applies to both pre- and post-1980 built dwellings. However, it should be noted that this same statutory section only allows structures completed prior to May 11, 1990, to be licensed as a bed and breakfast establishment. It also states other eligibility standards. In any case, such an establishment must be licensed by the State Division of Health and Family Services. (Tel. 608-266-1120)

Bed and Breakfast establishments must comply with all of the provisions listed above - (a) through (f). Those establishments that do not meet all of those provisions would need to comply with the Commercial Building Code. Examples of non-conformance with the bed and breakfast establishment provisions which would put the building into the category of Commercial Building would be; a home built after May 11, 1990, serving more than just breakfast, serving breakfast to other than the tenants, owner does not occupy the residence at time of rental. As with the bed and breakfast establishment this Commercial establishment that rents out rooms to tourists or transients and serves food must be licensed by the State Division of Health and Family Services. Types of licensing assigned to this Commercial building by H&FS might be bed and breakfast establishment, tourist rooming house, hotel/motel or restaurant.

(4) CHANGE OF USE. A building previously used for another purpose, such as a barn or garage, shall comply with this code upon conversion to residential use.

Comm 20.05 Exemptions.

(1) EXISTING DWELLINGS. The provisions of this code shall not apply to dwellings and dwelling units, the construction of which was commenced prior to the effective date of this code, or to additions or alterations to such dwellings.

Note: The provisions of chs. Comm 20 to 25 may be adopted by a municipality to apply to any additions or alterations to existing dwellings.

Existing Dwellings

In the case of a burned or collapsed pre-existing dwelling, a substantial portion of the dwelling, such as a basement, must remain in order for a reconstructed dwelling to be exempted from the UDC. Local regulations may be stricter by the use of the raze and remove procedures of state statute s. 66.0413.

It needs to be emphasized that only pre-existing dwellings and dwelling units are exempted. Buildings previously used for other purposes and converted to a dwelling are subject to the UDC upon conversion to residential use.

Also, the use of used lumber and other materials from an old dwelling in a new dwelling does not exempt it from the UDC.

(2) MULTIFAMILY DWELLINGS. The provisions of this code shall not apply to residences occupied by 3 or more families living independently or occupied by 2 such families and used also for business purposes.

Multi-Family Dwellings and Commercial Occupancies

The Wisconsin Commercial Building Code, chs. Comm 61 through 65, are the rules that apply to three- or more unit residential buildings as well as to commercial buildings that are places of employment and publicly-accessed buildings built after October 9, 1914. (There is an exemption for farming operations.) It also applies to dwelling or sleeping units that are in a building with commercial use in which the total combined number of commercial and residential tenant spaces is three or more. (The Existing Building Code, chs. Comm 75-79 applies to commercial buildings built prior to this date.)

The Commercial Building Code also applies to a situation in which three or more rowhouses are connected together with construction, whether or not there is a property line, fire wall or both separating the units.

The following residential units are subject to the Commercial Building Code:

- 2 or more apartments or rooming occupancy bedrooms in a building also used for commercial purposes
- 1 or more apartments in a building also used by two or more commercial tenants
- 3 or more apartments or rooming occupancy bedrooms in a building

(A rooming occupancy is one in which bathing and cooking facilities may or may not be shared but sleeping rooms are separately leased and secured from each other.)

The Uniform Dwelling Code does apply to a single dwelling unit or sleeping room constructed after June 1, 1980, in combination with a single business tenant, while the applicable parts of chs. Comm 61-65 apply to the business portion of the building. (In general, the UDC applies to both non-transient and transient residential usages.) The residential portion would need to be considered in the overall building area for Commercial Building Code compliance, unless it was separated by a firewall.

Home-based businesses such as professional offices, beauty shops, car repair, etc., are generally within the scope of the Commercial Building Code even if the business is located within the dwelling proper. However, there are several exceptions:

- *If there are no employees and the public does not enter for business purposes, OR*
- *If the activity meets the definition of home occupation of s. Comm 61.02(3)(h) & (4):*
 - *maximum of 1 nonfamily employee,*
 - *maximum 25 percent of the habitable floor area used,*
 - *no explosives, fireworks or motor vehicle repair.*

Note that per state statute s. 101.12(3)(h), municipalities are prohibited from issuing local permits or licenses for construction or use of public buildings or places of employment until the Department of Commerce has approved plans for such buildings, unless otherwise exempted from plan review. For a summary of plan submittal requirements, request a copy of our Commercial Plan Review brochure with the publications order form at the front of this commentary.

(3) REPAIRS. The provisions of this code do not apply to repairs or maintenance to dwellings or dwelling units, or to the repair of electrical, plumbing, heating, ventilating, air conditioning and other systems installed therein.

Repairs

The intent of this section is to exempt repairs from plan submittal, permit application and inspection requirements only. It does not exempt repairs from having to be preformed according to the code that was in effect at the time of original construction. See s. Comm 20.07(61) of the code and this commentary for a discussion of what constitutes a repair versus an alteration, the latter would require permit application. Note that s. 20.02(1)(c) allows municipalities to have more restrictive permitting requirements.

(4) MOVING OF DWELLINGS. The status of a dwelling, new or existing, shall not be affected by the moving of the dwelling.

Question: *A home that was built in 1939 is relocated to a new lot and installed on a new poured-in-place concrete foundation and basement. The home has interior doors that are 2'-6" wide and the stairway to the basement is 2'-8". Will the owner or contractor have to correct both of these Code violations before occupancy of the home can take place?*

Answer: *Unless the municipality has either an ordinance or a building code that was in effect prior to 1980 **and** these items were violations of that code, at the time of construction, the fact that the home is relocated and now placed on a new foundation the UDC does not apply.*

(5) ACCESSORY BUILDINGS. With the exception of s. Comm 21.08 (1), the provisions of this code do not apply to detached garages or to any accessory buildings detached from the dwelling.

Accessory Buildings

An open breezeway with a roof attachment between a house and a garage would create one building and cause the garage to be within the scope of the code even if it is located more than 10'-0" away from the dwelling and has open side-wall construction.

An outdoor pool is not subject to the UDC except for any electrical equipment located in the dwelling. Also, the electrical code independently governs any outside wiring. The Plumbing Code would also apply if there were any water or waste piping connecting the pool to the house.

Accessory Buildings - Decks

Question: *Are decks considered accessory buildings?*

Answer: *No, not if the deck serves as an exit path from the dwelling, then it is covered by the UDC. The following code sections typically apply, although not exclusively:*

- 21.16 *If the deck is attached to a building, the post holes (footings) must be 48 inches below finished grade.*
- 21.10 *Any lumber within 8 inches of the earth must be pressure treated.*
- 21.04 *Stairs, treads and risers. Stair width must be at least 36 inches. Risers shall not exceed 8 inches in height, measured vertically from tread to tread. Treads shall be at least 9 inches wide, measured horizontally from nosing to nosing. There shall be no variation in uniformity exceeding 3/16-inch in the depth of the tread or in the height of the risers.*

- 21.04 (2) (a) 1. *HANDRAILS: Every stairway of more than three risers shall be provided with at least one handrail. Handrails shall be provided on all open sides of stairways. Handrails shall be located at least 30 inches, but not more than 38 inches, above the tread nosing.*
- 21.04 (2) (b) 2. *GUARDRAILS: Decks that are more than 24 inches above grade shall be protected by guardrails. Guardrails shall be at least 36 inches above the upper surface of the floor. Open guardrails or handrails shall be provided with intermediate rails or an ornamental pattern to prevent passage of a sphere larger than 6 inches. Handrails and guardrails shall be designed and constructed to withstand a 200 pound load applied in any direction.*
- 21.045 *Ramps to decks must comply with this section.*
- 21.04 (3) (c) *Doors at landing.*
- 21.02 *Floor structural capacity 40 psf, live load.*
- 21.18 (4) *Wood foundation (poles) "FDN" treated (.45 CCA) or (.60 CCA).*
- *If the deck is free standing, not attached to the dwelling **not** serving as an exit path from the dwelling, then it may be treated as an accessory building.*

(6) DETACHED DECKS. The provisions of this code do not apply to detached decks provided the deck does not serve an exit from the dwelling.

(7) FARM BUILDINGS. The provisions of this code do not apply to the buildings used exclusively for farm operations.

Farm Buildings

This code does not exclude a house located on a farm or the dwelling unit attached to an agricultural building.

(8) INDIAN RESERVATIONS. The provisions of this code do not apply to dwellings located on Indian reservation land held in trust by the United States.

(9) RECREATIONAL VEHICLES AND MANUFACTURED OR MOBILE HOMES. The provisions of this code apply only to onsite installation or construction of an addition or alteration to a recreational vehicle or manufactured or mobile home, such as a stoop, deck, porch

or exterior stairs, provided the recreational vehicle or manufactured or mobile home was produced after June 1, 1980.

Note: Chapter Comm 27 applies to the installation of piers if the manufacturer does not specify the pier requirements.

Manufactured Home Foundations

Chapter Comm 27 sets minimum pier installation requirements for mobile or manufactured homes. If a home does not rest on its frame and wheels, then it shall as a minimum be supported by piers that meet these requirements. Ch. Comm 27 is a minimum code, so municipalities may have additional requirements for manufactured homes that are supported by piers, including wind tiedowns, skirting, etc. Municipalities may also require pier installation, rather than support by the wheels only.

Per s. Comm 20.04, permanent, on-site additions to mobile homes are subject to the Wisconsin Uniform Dwelling Code (UDC), Chs. Comm 20-25. The Division of Safety & Buildings applies the UDC foundation requirements to mobile homes that have basements or crawl spaces that have unbalanced fill (a difference in soil height between the inside and outside). The UDC has performance requirements for foundations so that masonry, concrete and permanent wood foundations are all acceptable for basements and crawl spaces. Because the UDC is a uniform code by statute, municipalities may not be any more or less restrictive than the UDC when regulating crawl spaces or basements that support manufactured dwellings or site-built homes.

However, per s. Comm 20.02(1)(b), a municipality may apply zoning ordinances to UDC dwellings, as well as manufactured homes. Such ordinances could regulate exterior appearance, size, setbacks, sidewalks, driveways and similar topics. Our agency is aware of municipalities that have had their ordinances challenged by private parties if they single out manufactured homes with such ordinances.

As usual, the municipality needs to have a properly adopted ordinance in order to enforce Chs. Comm 20-25 or 27 or any other local regulations.

Mobile Homes vs. Modular Homes

*Mobile homes have been required to follow construction standards, including heating, electrical and plumbing, since 1976 through a Federal Housing and Urban Development (HUD) program. In Wisconsin this is administered under contract by the Division of Safety and Buildings. The current proper and legal term for mobile homes is manufactured homes. While the manufactured home itself is not covered by the UDC, **any and all** site-built additions to that home, such as a basement, crawl space or room addition, decks, stairs, or landings attached to the home, do have to be constructed to meet the requirements of the UDC if the manufactured home was built after June 1, 1980.*

While manufactured homes are constructed to the HUD construction standards, manufactured dwellings must meet the UDC standards. We commonly refer to these non-HUD factory-built homes as manufactured dwellings. What is confusing to many is that double-wide manufactured homes often are similar in appearance to modular homes. For purposes of identification, a manufactured (mobile) home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This indicates the home has been constructed in accordance with the HUD manufactured home standards. On the other hand, a modular home or manufactured dwelling will be identified with a red plastic sticker, called a "Wisconsin Insignia," imprinted with the outline of the State of Wisconsin. It will usually be affixed to the electrical panel, vanity base cabinet or kitchen cabinet. Therefore, inspectors must first identify what they are looking at before applying the applicable code regulations.

A current list of approved Dwelling Manufacturers can be found in s. 20.13 of this commentary. Note that several of these also have mobile (manufactured) home lines.

If you have problems or questions regarding manufactured (mobile) homes, you may contact HUD's contracted Wisconsin coordinator at (608) 576-6224 in the Division of Safety and Buildings.

Subchapter II — Jurisdiction

Procedure for Municipalities Exercising Jurisdiction

Note that as a result of statutory changes in December 2003, the code will be revised in 2004 to require enforcement of the UDC by the state in any municipality that does not have local enforcement. This will be done by delegated inspection agency. See our website for details.

Subchapter II of ch. 20 sets out the procedure by which governmental jurisdiction is accomplished. It is intended in both the law and code that state government has a minimum of involvement when local governing bodies take on the Uniform Dwelling Code as a set of local regulations. That is why local government is provided the authority to set fees, remedies, and penalties and to carry out joint enforcement efforts with other municipalities.

The prime intent of state government involvement under these circumstances is to maintain "uniformity" in the writing, adopting, interpreting, application and enforcement of the rules.

In the interest of uniformity on a statewide basis, the adoption of additional regulations relating to a subject within the scope of the Uniform Dwelling Code is not permitted at the local government level except through petitioning for a variance from the department.

Comm 20.06 Procedure for municipalities exercising jurisdiction.

(1) MUNICIPAL JURISDICTION. Pursuant to ss. 101.65 and 101.76, Stats., cities, villages, towns and counties may exercise jurisdiction over the construction and inspection of new dwellings. Municipalities intending to exercise jurisdiction shall adopt the Uniform

Dwelling Code in its entirety. No additional standards within the scope of this code shall be adopted by the municipality unless specific approval has been granted by the department pursuant to s. Comm 20.20. No such municipality shall exercise jurisdiction except in accordance with the following procedure.

(a) Intent to exercise jurisdiction. Municipalities intending to exercise jurisdiction shall notify the department, in writing, at least 30 days prior to the date upon which the municipality intends to exercise jurisdiction under this code. The notification of intent shall include a statement by the municipality as to which of the following methods will be used for enforcement:

1. Individual municipal enforcement;
2. Joint municipal enforcement;
3. Contract with certified inspector or independent inspection agency;
4. Contract with another municipality;
5. Contract with the department.

Enforcement Method

The fifth option for method of enforcement, contract with the Department, is generally not available because of limited state staff. Only in situations where a municipality has failed to provide for enforcement, will the state take over enforcement. Even in that situation, the state will contract out the work to an inspection agency or certified inspector.

Municipalities still have a number of options to take to retain a certified inspector. These options are available for both routine and nonroutine situations. This means that if the regular inspector would have a conflict of interest or will be unavailable for a period of time in excess of 48 hours (two business days), then the municipality should arrange for another inspector, perhaps from an adjoining municipality, to fill in while he is away.

Per this section, a municipality has broad discretion in the means of enforcing the UDC. Under the joint enforcement option, a municipality may delegate enforcement of the UDC erosion control requirements, including legal prosecutorial follow-up, to a county that has adopted the UDC by ordinance. Alternatively, the municipality may contract with the county to provide plan review and inspection services but retain legal prosecutorial follow-up.

(b) Submission of ordinances. Municipalities intending to exercise jurisdiction shall submit all ordinances adopting the uniform dwelling code to the department at the same time as the notice of intent. The department shall review and make a determination regarding municipal intent to exercise jurisdiction over new dwellings within 15 business days of receipt of the municipal ordinances adopting the uniform dwelling code. A municipality may appeal a

determination by the department that an ordinance does not comply with the code. Any appeal shall follow the procedure set out in s. Comm 20.21 (2).

Submission of Ordinances

A local ordinance adopting the UDC for enforcement should include the following elements:

1. *The ordinance which names the Uniform Dwelling Code as the construction regulation for the municipality;*
2. *The ordinance which establishes the office of building inspection or which sets forth the authority and duties for inspections to be made;*
3. *The ordinance granting authority to establish fees, with or without the actual fee values; and*
4. *The ordinance which spells out what steps must be followed to accomplish compliance and what fines or forfeitures will be assessed for failure of compliance.*

Sample model ordinances are available from the state UDC Program in the Safety and Buildings Division. (A copy is included in the appendix to this commentary.)

(c) Passage of ordinances. A certified copy of all adopted ordinances and subsequent amendments thereto shall be filed with the department within 30 days after adoption.

Note: A copy of a model ordinance for adoption is available from the department.

Passage of Ordinances

Question: *A township has adopted the code and has had inspections for several years. The township decides it no longer wishes to enforce the code in their municipality. Is it up to the township as to when it will enforce the code and when it can just drop the code? Once the township has adopted the code and have begun inspections, does it have the option of stopping it any time?*

Answer: *Per state statute, **all** municipalities are required to enforce all of ch. 20-25 of the UDC. The municipality may later withdraw from local enforcement of the code. Subsection Comm 20.06(1)(a) requires that prior to local adoption and enforcement of the UDC in a municipality, the department must be notified at least 30 days prior to the date of which the municipality intends to exercise jurisdiction. Repeal of a municipal ordinance for the purpose of withdrawing from participation in the program, should be accompanied by notification to the department that such a withdrawal will take place and what other methods of enforcement will be used in that community. If the ordinance is not repealed and not enforced, the town may be exposing itself to some liability.*

(2) COUNTY JURISDICTION. A county ordinance shall apply in any city, village or town which has not enacted ordinances pursuant to this section. No county ordinance may apply until after 30 business days after the effective date of this code unless a municipality within the county informs the department of its intent to have this code administered and enforced by the county. This section shall not be construed to prevent or prohibit any municipality from enacting and administering this code at any time after the effective date of this code. The department shall review and make a determination regarding county jurisdiction over new buildings within 15 business days of receipt of the county ordinances adopting the uniform dwelling code.

Note: 1: Section 101.651 (3m) and 3s), Stats., allows counties to adopt just the provisions of this code relating to construction site erosion control.

Note 2: Sections 101.651 (3m) and 3s), Stats., state that counties with a uniform dwelling code erosion control ordinance enforcement program shall enforce the erosion control ordinance provisions on a county-wide basis in all townships which have not adopted the Uniform Dwelling code and may do so in cities and villages which have not adopted the Uniform Dwelling Code.

County Jurisdiction

This section was originally developed to allow counties to provide enforcement for small municipalities. It offered potential advantages of a centralized building, zoning and sanitary permit issuing office. It was also expected to be a more uniform and efficient enforcement method than each individual town or village hiring its own inspector. It is still an available enforcement option so long as both parties agree to it.

As a result of recent legislation, counties will no longer have the authority to just enforce the erosion control provisions of the UDC. The code will be revised in 2004 to reflect this change.

(3) DEPARTMENTAL JURISDICTION. Pursuant to ss. 101.63 and 101.73, Stats., the department will administer and enforce this code in any municipality which has not adopted, or is not covered by, an ordinance adopted in accordance with this section.

Note: Every 3 years the department will perform performance audits of the erosion control programs of the municipalities administering the program and issue a written determination on whether the municipality complies with the erosion control ordinances and the erosion control standards.

Departmental Jurisdiction

The department currently only seeks contracts with independent inspection agencies or inspectors for inspection services only in those municipalities which fail to adopt an ordinance, unless the municipality is covered by an enforcing county.

Subchapter III — Definitions

Comm 20.07 Definitions.

In chs. Comm 20 to 25:

(1) "Accessory building" means a detached building, not used as a dwelling unit but is incidental to that of the main building and which is located on the same lot. Accessory building does not mean farm building.

(2) "Addition" means new construction performed on a dwelling which increases the outside dimensions of the dwelling.

(3) "Allowable stress" means the specified maximum permissible stress of a material expressed in load per unit area.

(4) "Alteration" means an enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a dwelling.

(5) "Approved" means an approval by the department or its authorized representative. (Approval is not to be construed as an assumption of any legal responsibility for the design or construction of the dwelling or building component.)

(6) "Attic" means a space under the roof and above the ceiling of the topmost part of a dwelling.

(7) A "balcony" is a landing or porch projecting from the wall of a building.

(7m) "Base flood elevation" means the depth or peak elevation of flooding, including wave height, which has a one percent or greater chance of occurring in any given year.

(8) "Basement" means that portion of a dwelling below the first floor or groundfloor with its entire floor below grade.

(8m) "Best management practices" is defined in s. 101.653, Stats., and means practices, techniques or measures that the department determines to be effective means of preventing or reducing pollutants of surface water generated from construction sites.

(9) "Building component" means any subsystem, subassembly or other system designed for use in or as part of a structure, which may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety.

(10) "Building system" means plans, specifications and documentation for a system of manufactured building or for a type or a system of building components, which may include

structural, electrical, mechanical, plumbing and variations which are submitted as part of the building system.

(10m) "Business day" means any day other than Saturday, Sunday or a legal holiday.

(10t) "Carport" means a structure used for storing motorized vehicles that is attached to a dwelling and that has at least 2 sides completely unenclosed.

(11) "Ceiling height" means the clear vertical distance from the finished floor to the finished ceiling.

(12) "Certified inspector" means a person certified by the department to engage in the administration and enforcement of this code.

(13) A "chimney" is one or more vertical, or nearly so, passageways or flues for the purpose of conveying flue gases to the atmosphere.

(14) "Chimney connector." Same as smoke pipe.

(15) "Closed construction" means any building, building component, assembly or system manufactured in such a manner that it cannot be inspected before installation at the building site without disassembly, damage or destruction.

(15g) "Coarse aggregate" means granular material, such as gravel or crushed stone, that is predominately retained on a sieve with square openings of 4.75 mm or 0.18 inch.

(15m) "Coastal floodplain" means an area along the coast of Lake Michigan or Lake Superior below base flood elevation that is subject to wave runup or wave heights of 3 feet or more.

(16) "Code" means, chs. Comm 20 to 25, the Wisconsin uniform dwelling code.

(17) "Combustion air" means the total amount of air necessary for the complete combustion of a fuel.

(19) "Compliance assurance program" means the detailed system documentation and methods of assuring that manufactured dwellings and dwelling components are manufactured, stored, transported, assembled, handled and installed in accordance with this code.

(19m) "Composting toilet system" means a method that collects, stores and converts by bacterial digestion nonliquid-carried human wastes or organic kitchen wastes, or both, into humus.

(20) "Cooling load" is the rate at which heat must be removed from the space to maintain a selected indoor air temperature during periods of design outdoor weather conditions.

(21) "Dead load" means the vertical load due to all permanent structural and nonstructural components of the building such as joists, rafters, sheathing, finishes and construction assemblies such as walls, partitions, floors, ceilings and roofs, and systems.

(21m) "Deck" means an unenclosed exterior structure, attached or adjacent to the exterior wall of a building, which has a floor, but no roof.

(23) "Department" means the department of Commerce.

(24) "Detached building" means any building which is not physically connected to the dwelling.

(24m) "Dilution air" means air that is provided for the purpose of mixing with flue gases in a draft hood or draft regulator.

(24r) "Direct-vent appliance" means a gas-burning appliance that is constructed and installed so that all air for combustion is derived directly from the outside atmosphere and all flue gases are discharged to the outside atmosphere.

(25) "Dwelling" means any building, the initial construction of which is commenced on or after the effective date of this code, which contains one or 2 dwelling units.

(26) "Dwelling contractor" means any person, firm or corporation engaged in the business of performing erosion control or construction work such as framing, roofing, siding, insulating, masonry or window replacement work covered under this code and who takes out a building permit. "Dwelling contractor" does not include the owner of an existing dwelling, an owner who will reside in a new dwelling or a person, firm or corporation engaging exclusively in electrical, plumbing, or heating, ventilating, and air conditioning work.

(27) "Dwelling unit" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

Dwelling Unit

Question: *What constitutes a separate dwelling unit?*

Answer: *The key phrase in the definition is ". . . common household, to the exclusion of all others." So if two living areas have separate exiting and no common use areas, then they are separate dwelling units.*

(28t) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

(28v) "Erosion control procedure" means a practice or a combination of practices implemented to prevent or reduce erosion and the resulting deposition of soil, sediment or rock fragments into waters of the state, public sewers or off the owner's land. These procedures include, but are not limited to, silt or filter fences, straw or hay bales, tarps or riprap, berms, sediment basins or vegetative strips.

Note: See Appendix E for examples and illustrations.

(29) "Exit" means a direct, continuous, unobstructed means of egress from inside the dwelling to the exterior of the dwelling.

(29m) "Existing dwelling" means a dwelling erected prior to the effective date of this code, one for which a valid building permit exists, or one for which lawful construction has commenced prior to the effective date of this code.

Note: See s. Comm 20.03 for the effective date of chs. Comm 20-25.

(30) "Farm operation" is the planting and cultivating of the soil and growing of farm products substantially all of which have been planted or produced on the farm premises.

Note: According to s. 102.04 (3), Stats., the farm operation includes the management, conserving, improving and maintaining of the premises, tools, equipment improvements and the exchange of labor or services with other farmers; the processing, drying, packing, packaging, freezing, grading, storing, delivery to storage, carrying to market or to a carrier for transportation to market and distributing directly to the consumer; the clearing of such premises and the salvaging of timber and the management and use of wood lots thereon but does not include logging, lumbering and wood-cutting operations unless the operations are conducted as an accessory to other farm operations.

(31) "Farm premises" is defined to be the area which is planted and cultivated. The farm premises does not include greenhouses, structures or other areas unless used principally for the production of food or farm products.

(32) "Farm products" are defined as agricultural, horticultural and arboricultural crops. Animals considered within the definition of agricultural include livestock, bees, poultry, fur-bearing animals, and wildlife or aquatic life.

(33) "Farming" means the operation of a farm premises owned or rented by the operator.

(33m) "Fireblocking" means a material or device used to retard or prevent the spread of flame or hot gases through concealed spaces into adjacent rooms or areas.

(34) "Firebox" means that part of the fireplace used as the combustion chamber.

(34e) "First floor" means the first floor level above any groundfloor or basement or, in the absence of a groundfloor or basement, means the lowest floor level in the dwelling.

(34f) "Flight" means a continuous series of steps with no intermediate landings.

(34g) "Floodfringe area" means that portion of the floodplain outside of the floodway that is at or below base flood elevation. The term "floodfringe" is intended to designate an area of standing, rather than flowing, water.

(34h) "Floodplain" means land which is subject to flooding which is at or below base flood elevation. The floodplain includes the floodway and floodfringe areas.

(34i) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the flood discharge. The term "floodway" is intended to designate an area of flowing, rather than standing, water.

(34m) "Floor area" means the area of a room that has a ceiling height of at least 7 feet. Rooms with ceilings less than 7 feet in height for more than 50% of the room are not considered to be floor areas.

(35) "Garage" means a structure used for storing motorized vehicles that has any more than 2 sides completely enclosed.

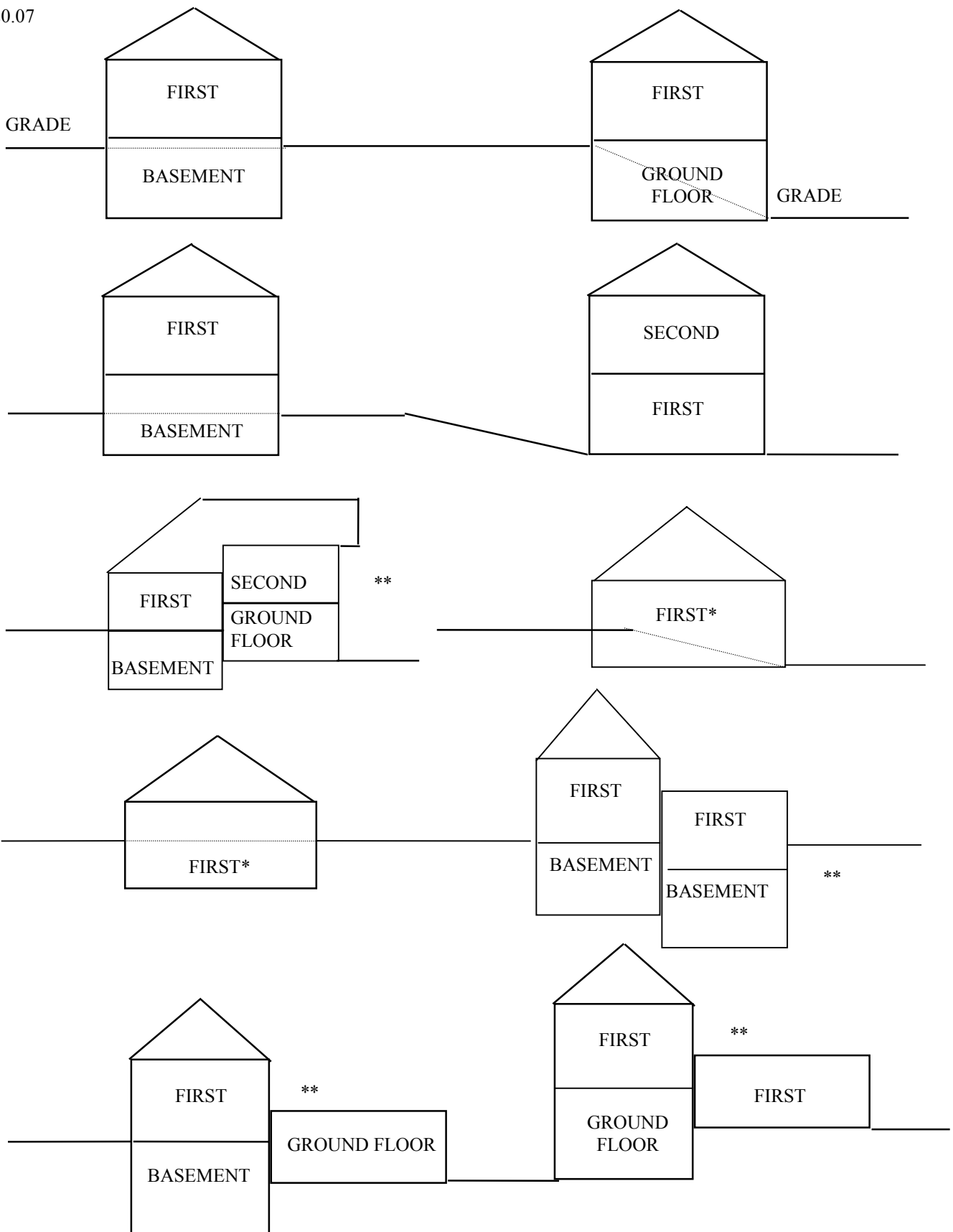
(36) "Gas appliance" means any device that uses gas as a fuel or raw material to produce light, heat, power, refrigeration or air conditioning.

(36m) "Groundfloor" means that level of a dwelling, below the first floor, located on a site with a sloping or multilevel grade and which has a portion of its floor line at grade.

Ground Floor

Question: *Does the fact that a floor level has a single exit to grade automatically make that entire floor a ground floor although the remainder of the level could be fully below grade?*

Answer: *Yes, this would be a ground floor, with or without the exit per the definition of this section. The designer could use areaways (window wells) to provide natural light or leave the floor level unfinished as nonhabitable storage and utility area. If the answer is yes, then all habitable rooms on this level would be required to have natural light since the exception for basements in s. Comm 21.05(1)(a) would not apply.*



*There is always a first floor in a dwelling **See s. Comm 21.03(11)

s. Comm 20.07 (8), (34k), 36m)

BASEMENT, FIRST FLOOR AND GROUND FLOOR DEFINITIONS